

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ANTHONY BAILEY,

Petitioner,

v.

No. CIV 11-891 RB/LFG

RAY TERRY, WARDEN,

Respondent.

**ORDER ADOPTING RECOMMENDATION OF DISMISSAL,
WITHOUT PREJUDICE**

THIS MATTER is before the Court on the Magistrate Judge's Recommendation of Dismissal Without Prejudice, filed January 23, 2012. [Doc. 15.] On October 3, 2011, Petitioner Anthony Bailey ("Bailey") filed a petition for writ of habeas corpus under 28 U.S.C. § 2241. [Doc. 1.] In lieu of filing an Answer, Respondent filed a motion to dismiss. Bailey did not file any opposition to the motion to dismiss, and the Magistrate Judge entered an Order to Show Cause on December 29, 2011. [Doc. 14.] Bailey did not respond to the Order to Show Cause, which resulted in the Magistrate Judge's recommendation to dismiss the petition, without prejudice.

On February 10, 2012, Bailey filed a short notice or letter ("notice"), rather than objections, to the Magistrate Judge's recommendation. In the notice, Bailey acknowledged having received some pleading from the Court. He states:

This is regarding the notice I received[.] I did not have a attorney or legal representation[.] I apologize for the misunderstanding of the issue[.] [I]t was not a complaint[.] [I]t was a response to the issue of the case with ICE. So ICE bro[u]ght me to Dona An[] Detention Center on January 27, 2012 to see the judge concerning the matter[.]

and in closing this letter I would like to thank your[] for your time and your[] concern.

[Doc. 16.]

The Court construes Bailey's notice as consent to dismiss his original § 2241 petition. His notice indicates he has resolved or is in the process of resolving the issue with which he was concerned. Indeed, he appears to state there was a misunderstanding and that he had not intended to file a complaint. His notice raises no objection to the Magistrate Judge's recommendation of dismissal, without prejudice.

Thus, the Court ADOPTS the Magistrate Judge's recommendation of dismissal, and DISMISSES Anthony Bailey's petition for writ of habeas corpus under 28 U.S.C. § 2241 [Doc. 1] and this matter, without prejudice. [Doc. 1.]

A handwritten signature in black ink, appearing to read "Robert Zach", is written above a horizontal line.

UNITED STATES DISTRICT COURT